

**REMARKS**

The Examiner has rejected claims 1 to 13 under 35 USC §103(a) as being unpatentable over Powrie et al. (US 2001/0053404) in view of Blake et al. (US 4,368,211).

It is noted that the Examiner has characterized claim 1 as differing from Powrie et al. in only one respect, namely, "requiring a portion of the mash to be homogenized". However, it is respectfully submitted that the Examiner has not taken into account step (g) of claim 1 wherein 5 to 80% weight apple mash is added to the homogenized portion of apple product to produce the multi-purpose, multi-high functional apple base.

The Examiner has referred to Blake et al. as disclosing that a combination for aerated frozen desserts containing uncooked fruit puree is homogenized at pressures ranging from 1,000 to 8,000 psig. There is no teaching in Blake et al. of the other steps in claim 1.

Importantly, it is noted that neither Powrie et al. nor Blake et al. disclose homogenizing a portion of an apple mash which has predominantly intact single cells in order to fracture those intact single cells and then adding to the homogenized mixture 5 to 80% weight of apple mash which has predominantly intact single cells. This blend of apple mash with predominantly intact single cells and apple mash with fractured cells is a novel combination and provides the unique properties for the applicant's multi-purpose, multi-functional apple base.

It is noted that neither Powrie et al. nor Blake et al. refer to one another and it follows that a person skilled in the art would not be inclined to combine the two references. Furthermore, combining the teachings of the two references does not amount to the applicant's unique invention.

Claim 1 has been amended to emphasize the fact that only a portion of the apple mash from step (e) is homogenized to fracture intact single cells and that 5 to 80% weight with predominantly intact single cells obtained from step (e) is added back to the fractured cell apple homogenate of step (f).

It is submitted that claim 1 as amended patentably distinguishes Powrie et al. in view of Blake et al. and accordingly the objection under 35 USC §103(a) should be withdrawn.

In the remaining pages of the Office Action, the Examiner has rejected dependent claims 2 to 13 for various stated reasons. However, it is submitted that taking into account the

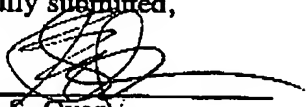
foregoing distinguishing amendments that have been incorporated into claim 1, claim 1 should now be deemed to be patentable and accordingly claims 2 to 13, which depend from amended claim 1, should also be regarded as being patentable.

New claim 14 has been added and is directed to a specific embodiment of the invention. It is submitted that new claim 14 is patentable under 35 USC §103(a) over Powrie et al. and Blake et al.

Favourable action on this amended application is respectfully solicited.

Respectfully submitted,

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